

AMENDED IN ASSEMBLY APRIL 28, 2014

CALIFORNIA LEGISLATURE—2013–14 REGULAR SESSION

ASSEMBLY BILL

No. 1921

Introduced by Assembly Members Holden and Rendon

February 19, 2014

An act to add ~~Section 10375 to the Public Contract Code, Section 19136 to the Government Code, relating to public contracts: personal services contracts.~~

LEGISLATIVE COUNSEL'S DIGEST

AB 1921, as amended, Holden. ~~Public contracts for services: access to records.~~ *Personal services contracts: access to records.*

The California Constitution establishes that the civil service includes every officer and employee of the state, except as otherwise provided in the California Constitution, and requires civil service appointment to be made under a general system based on merit ascertained by competitive examination.

The State Civil Service Act establishes standards for the use of personal services contracts by state agencies and authorizes personal services contracts when prescribed conditions are met.

Existing law sets forth requirements for the acquisition of goods and services by state agencies and sets forth the various responsibilities of the Department of General Services and other state agencies in overseeing and implementing state contracting procedures and policies.

~~Existing law, the California Public Records Act, The California Public Records Act~~ provides for public access to information concerning the conduct of the people's business, except for public records exempt from disclosure by express provisions of law. The act also provides that a

state or local agency may not allow another party to control disclosure of information that is otherwise subject to disclosure.

~~This bill would require specified service contracts between a state agency and a person or company performing a governmental function to include provisions requiring agency access to records held by the contractor and notification that such records may be public records. This bill also would require the contractor to keep and maintain public records pertaining to the contract and to provide the agency with access to such records as provided in the California Public Records Act.~~

This bill would require personal services contracts in excess of \$25,000 between a state agency and a contractor to provide the state agency with the right to review and copy any records and files related to the performance of the personal services contract and to indicate that those records and files are subject to the California Public Records Act and may be disclosed. This bill would require any California Public Records Act requests pertaining to a personal services contract, as described, to be submitted directly to the state agency.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 19136 is added to the Government Code,
- 2 to read:
- 3 19136. (a) Each personal services contract in excess of
- 4 twenty-five thousand dollars (\$25,000) between a state agency
- 5 and a contractor for the performance of a personal services
- 6 contract shall provide that the state agency shall have the right to
- 7 review and to copy any records and files related to the performance
- 8 of the personal services contract, and shall indicate that such
- 9 records and files are subject to the California Public Records Act
- 10 (Chapter 3.5 (commencing with Section 6250) of Division 7 of
- 11 Title 1) and may be disclosed by the state agency pursuant to the
- 12 California Public Records Act.
- 13 (b) Any request for a record under the California Public Records
- 14 Act pertaining to a personal services contract as described in
- 15 subdivision (a) shall be submitted directly to the state agency and
- 16 not to the contractor.
- 17 ~~SECTION 1. Section 10375 is added to the Public Contract~~
- 18 ~~Code, to read:~~

1 ~~10375. Each service contract in excess of twenty-five thousand~~
2 ~~dollars (\$25,000) between a public agency and a person or company~~
3 ~~for the performance of a governmental function shall provide that~~
4 ~~the public agency is entitled to receive a copy of records and files~~
5 ~~related to the performance of the governmental function, and~~
6 ~~indicate that such records and files are subject to the California~~
7 ~~Public Records Act and may be disclosed by the public agency~~
8 ~~pursuant to the California Public Records Act. Specifically, each~~
9 ~~service contract shall require that a contractor doing business with~~
10 ~~a department or agency shall do all of the following:~~

11 ~~(a) Keep and maintain the public records that ordinarily and~~
12 ~~necessarily would be kept and maintained by the agency in order~~
13 ~~to perform the service or activity.~~

14 ~~(b) Provide the agency with access to such records as provided~~
15 ~~in the California Public Records Act.~~